

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD AGEE, JR. et al.,

Plaintiffs,

v.

JOCELYN BENSON, et al.,

Defendants.

Case No. 1:22-CV-00272-PLM-RMK-JTN

**THE PARTIES' JOINT MOTION FOR
LEAVE TO PERMIT COMMISSION
DEFENDANTS TO TAKE CERTAIN
DEPOSITIONS AFTER THE CLOSE OF
DISCOVERY**

The parties, in support of their Joint Motion for Leave to Permit Defendants Michigan Independent Citizens Redistricting Commission, Douglas Clark, Juanita Curry, Anthony Eid, Rhonda Lange, Steven Terry Lett, Brittnei Kellom, Cynthia Orton, M.C. Rothhorn, Rebecca Szetela, Janice Vallette, Erin Wagner, Richard Weiss, and Dustin Witjes, each in his or her official capacity as a Commissioner of the Commission (collectively, the "Commission") to Take Certain Depositions After the Close of Discovery, state as follows:

1. Under the Court's Case Management Order, discovery is to be completed by April 14, 2023. (ECF No. 38, PageID.507).
2. On March 24, 2023, counsel for the Commission emailed counsel for Plaintiffs regarding the availability of Plaintiffs' experts for depositions in April 2023, and on March 28, 2023, the Commission served a notice of deposition of Plaintiffs' expert Mr. Sean P. Trende, scheduling his deposition for Wednesday, April 12, 2023.
3. Mr. Trende is not available to be deposed on April 12, 2023. However, Mr. Trende is available on April 18, 2023.
4. On March 28, 2023, Plaintiffs served an affidavit of LaMar Lemmons III as a supplemental disclosure to Plaintiffs' Initial Disclosures.
5. On March 30, 2023, the Commission issued a subpoena for deposition testimony and for documents to LaMar Lemmons III, setting the deposition for Thursday, April 13, 2023.

6. Mr. Lemmons is not available to be deposed on April 13, 2023, or on April 12, 2023, or April 14, 2023, but is available on April 20, 2023.

7. The Court's Case Management Order states, "[a]ll depositions must be completed before the close of discovery." (ECF No. 38, PageID.508).

8. The Court's Case Management Order further states, "[t]here shall be no deviations from this order without prior approval of the court upon good cause shown." *Id.*

9. The parties agree that the Commission should have the opportunity to depose Mr. Trende and Mr. Lemmons.

10. Good cause therefore exists for a minor deviation from the Court's Case Management Order to permit the Commission to take the depositions of Mr. Trende and Mr. Lemmons.

WHEREFORE, the parties request that the Court enter an Order granting the Commission leave to take the depositions of Plaintiffs' expert Sean P. Trende and of LaMar Lemmons III on or before April 20, 2023.

Dated: April 4, 2023

Respectfully submitted,

/s/John J. Bursch (per email auth. 4/4/23)

John J. Bursch (P57679)
BURSCH LAW PLLC
Attorney for Plaintiffs
9339 Cherry Valley Ave SE, #78
Caledonia, Michigan 49316
(616) 450-4235
jbursch@burschlaw.com

/s/Michael J. Pattwell (per email auth. 4/4/23)

Michael J. Pattwell (P72419)
James J. Fleming (P84490)
Amia A. Banks (P84182)
CLARK HILL PLC
215 South Washington Square, Suite 200
Lansing, MI 48933
(517) 318-3100
mpattwell@clarkhill.com
jfleming@clarkhill.com
abanks@clarkhill.com

Counsel for Plaintiffs

/s/Heather S. Meingast (per email auth. 4/4/23)

Heather S. Meingast (P55439)
Erik A. Grill (P64713)
Assistant Attorneys General
P.O. Box 30736
Lansing, Michigan 48909
517.335.7659
meingasth@michigan.gov
grille@michigan.gov

Counsel for Defendant Benson

/s/ Nathan J. Fink

FINK BRESSACK
David H. Fink (P28235)
Nathan J. Fink (P75185)
38500 Woodward Ave., Suite 350
Bloomfield Hills, Michigan 48304
(248) 971-2500
dfink@finkbressack.com
nfink@finkbressack.com

/s/ Katherine L. McKnight

BAKER & HOSTETLER LLP
Katherine L. McKnight
E. Mark Braden
Richard B. Raile
Dima J. Atiya
1050 Connecticut Ave., NW,
Suite 1100
Washington, D.C. 20036
(202) 861-1500
kmcknight@bakerlaw.com
mbraden@bakerlaw.com
rraile@bakerlaw.com
datiya@bakerlaw.com

BAKER & HOSTETLER LLP
Patrick T. Lewis
Key Tower, 127 Public Square,
Suite 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com

BAKER & HOSTETLER LLP
Erika Dackin Prouty
200 Civic Center Drive, Suite 1200
Columbus, Ohio 43215
(614) 228-1541
eprouthy@bakerlaw.com

*Counsel for Defendants, Michigan
Independent Citizens Redistricting
Commission, and Douglas Clark,
Juanita Curry, Anthony Eid, Rhonda
Lange, Steven Terry Litt, Brittini
Kellom, Cynthia Orton, M.C.
Rothhorn, Rebecca Szetela, Janice
Vallette, Erin Wagner, Richard Weiss,
and Dustin Witjes, each
in his or her official capacity as a
Commissioner of the Michigan
Independent Citizens Redistricting
Commission*

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2023, a true and correct copy of the foregoing was filed via the Court's CM/ECF system and served via electronic filing upon all counsel of record in this case.

/s/ Nathan J. Fink
Nathan J. Fink